

AMENDED IN SENATE AUGUST 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1906**

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**Introduced by Assembly Member Melendez**

February 11, 2016

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An act to amend ~~Section~~ *Sections 6601 and 6601.3* of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL’S DIGEST

AB 1906, as amended, Melendez. Mental health: sexually violent predators.

Existing law requires the Secretary of the Department of Corrections and Rehabilitation to refer a person who is in custody under that department’s jurisdiction, who is serving a determinate sentence or whose parole has been revoked, for evaluation by the State Department of State Hospitals if the secretary determines that the person may be a sexually violent predator. Existing law establishes a screening process for the department and the Board of Parole Hearings to determine whether a person has committed a sexually violent offense, and to determine if the person is likely to be a sexually violent predator prior to referral to the State Department of State Hospitals for a full evaluation. *Existing law authorizes the board, upon a showing of good cause, as defined, to order that the person referred to the State Department of State Hospitals remain in custody for no more than 45 days beyond the person’s scheduled release date for full evaluation.* Existing law ~~also~~ requires, if the State Department of State Hospitals determines that ~~a~~ *the* person is a sexually violent predator, as defined, the Director of State Hospitals to forward a request to a specified county

for a petition to be filed for the person to be committed to a facility for mental health treatment.

This bill would require the Director of State Hospitals to forward the request no less than 20 calendar days prior to the scheduled release date of the ~~person~~. *person or, if the person is ordered by the board to remain in custody beyond the person's scheduled release date, no less than 20 calendar days prior to the end of that hold. The bill would modify the definition of "good cause" in the above provision. The bill would also make technical, nonsubstantive changes to these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6601 of the Welfare and Institutions Code  
2 is amended to read:

3 6601. (a) (1) Whenever the Secretary of the Department of  
4 Corrections and Rehabilitation determines that an individual who  
5 is in custody under the jurisdiction of the Department of  
6 Corrections and Rehabilitation, and who is either serving a  
7 determinate prison sentence or whose parole has been revoked,  
8 may be a sexually violent predator, the secretary shall, at least six  
9 months prior to that individual's scheduled date for release from  
10 prison, refer the person for evaluation in accordance with this  
11 section. However, if the inmate was received by the department  
12 with less than nine months of his or her sentence to serve, or if the  
13 inmate's release date is modified by judicial or administrative  
14 action, the secretary may refer the person for evaluation in  
15 accordance with this section at a date that is less than six months  
16 prior to the inmate's scheduled release date.

17 (2) A petition may be filed under this section if the individual  
18 was in custody pursuant to his or her determinate prison term,  
19 parole revocation term, or a hold placed pursuant to Section 6601.3,  
20 at the time the petition is filed. A petition shall not be dismissed  
21 on the basis of a later judicial or administrative determination that  
22 the individual's custody was unlawful, if the unlawful custody was  
23 the result of a good faith mistake of fact or law. This paragraph  
24 shall apply to any petition filed on or after January 1, 1996.

25 (b) The person shall be screened by the Department of  
26 Corrections and Rehabilitation and the Board of Parole Hearings

1 based on whether the person has committed a sexually violent  
2 predatory offense and on a review of the person's social, criminal,  
3 and institutional history. This screening shall be conducted in  
4 accordance with a structured screening instrument developed and  
5 updated by the State Department of State Hospitals in consultation  
6 with the Department of Corrections and Rehabilitation. If as a  
7 result of this screening it is determined that the person is likely to  
8 be a sexually violent predator, the Department of Corrections and  
9 Rehabilitation shall refer the person to the State Department of  
10 State Hospitals for a full evaluation of whether the person meets  
11 the criteria in Section 6600.

12 (c) The State Department of State Hospitals shall evaluate the  
13 person in accordance with a standardized assessment protocol,  
14 developed and updated by the State Department of State Hospitals,  
15 to determine whether the person is a sexually violent predator as  
16 defined in this article. The standardized assessment protocol shall  
17 require assessment of diagnosable mental disorders, as well as  
18 various factors known to be associated with the risk of reoffense  
19 among sex offenders. Risk factors to be considered shall include  
20 criminal and psychosexual history, type, degree, and duration of  
21 sexual deviance, and severity of mental disorder.

22 (d) Pursuant to subdivision (c), the person shall be evaluated  
23 by two practicing psychiatrists or psychologists, or one practicing  
24 psychiatrist and one practicing psychologist, designated by the  
25 Director of State Hospitals. If both evaluators concur that the  
26 person has a diagnosed mental disorder so that he or she is likely  
27 to engage in acts of sexual violence without appropriate treatment  
28 and custody, the Director of State Hospitals shall forward a request  
29 for a petition for commitment under Section 6602 to the county  
30 designated in subdivision (i). Copies of the evaluation reports and  
31 any other supporting documents shall be made available to the  
32 attorney designated by the county pursuant to subdivision (i) who  
33 may file a petition for commitment.

34 (e) If one of the professionals performing the evaluation pursuant  
35 to subdivision (d) does not concur that the person meets the criteria  
36 specified in subdivision (d), but the other professional concludes  
37 that the person meets those criteria, the Director of State Hospitals  
38 shall arrange for further examination of the person by two  
39 independent professionals selected in accordance with subdivision  
40 (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) Any independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of State Hospitals for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) (1) If the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the scheduled release date of the person. Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court. ~~The person has no right to enforce the time limit set forth in this subdivision and has no remedy for its violation.~~

(2) *If a hold is placed pursuant to Section 6601.3 and the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the end of the hold.*

1     (3) *The person shall have no right to enforce the time limit set*  
2 *forth in this subdivision and shall have no remedy for its violation.*

3     (i) If the county's designated counsel concurs with the  
4 recommendation, a petition for commitment shall be filed in the  
5 superior court of the county in which the person was convicted of  
6 the offense for which he or she was committed to the jurisdiction  
7 of the Department of Corrections and Rehabilitation. The petition  
8 shall be filed, and the proceedings shall be handled, by either the  
9 district attorney or the county counsel of that county. The county  
10 board of supervisors shall designate either the district attorney or  
11 the county counsel to assume responsibility for proceedings under  
12 this article.

13     ~~(j) The time limits set forth in this section shall not apply during~~  
14 ~~the first year that this article is operative.~~

15     ~~(k)~~  
16     (j) An order issued by a judge pursuant to Section 6601.5,  
17 finding that the petition, on its face, supports a finding of probable  
18 cause to believe that the individual named in the petition is likely  
19 to engage in sexually violent predatory criminal behavior upon his  
20 or her release, shall toll that person's parole pursuant to paragraph  
21 (4) of subdivision (a) of Section 3000 of the Penal Code, if that  
22 individual is determined to be a sexually violent predator.

23     ~~(t)~~  
24     (k) Pursuant to subdivision (d), the attorney designated by the  
25 county pursuant to subdivision (i) shall notify the State Department  
26 of State Hospitals of its decision regarding the filing of a petition  
27 for commitment within 15 days of making that decision.

28     SEC. 2. *Section 6601.3 of the Welfare and Institutions Code*  
29 *is amended to read:*

30     6601.3. (a) Upon a showing of good cause, the Board of Parole  
31 Hearings may order that a person referred to the State Department  
32 of State Hospitals pursuant to subdivision (b) of Section 6601  
33 remain in custody for no more than 45 days beyond the person's  
34 scheduled release date for full evaluation pursuant to subdivisions  
35 (c) to (i), inclusive, of Section 6601.

36     (b) For purposes of this section, good cause means circumstances  
37 where there is a recalculation of credits or a restoration of denied  
38 or lost ~~credits~~, *credits by any custodial agency or court*, a  
39 resentencing by a court, the receipt of the prisoner into custody,  
40 or equivalent exigent circumstances ~~which~~ *that* result in there being

- 1 less than 45 days prior to the person's scheduled release date for
- 2 the full evaluation described in subdivisions (c) to (i), inclusive,
- 3 of Section 6601.

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